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15 Attorneys for Plaintiffs
16 TRI-VALLEY CARES, MARYLIA KELLEY,
17 and JANIS KATE TURNER

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

29 TRI-VALLEY CARES, MARYLIA
30 KELLEY, and JANIS KATE TURNER,
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32 Plaintiffs,

33 v.

34 UNITED STATES DEPARTMENT OF
35 ENERGY, NATIONAL NUCLEAR
36 SECURITY ADMINISTRATION, and
37 LAWRENCE LIVERMORE NATIONAL
38 LABORATORY,
39
40 Defendants.

Case No.: 08-cv-1372-SBA

**STIPULATION AND ORDER
AMENDING BRIEFING SCHEDULE**

1 Plaintiffs Tri-Valley CAREs, Marylia Kelley, and Janis Kate Turner (“Plaintiffs”) and
2 defendants United States Department of Energy, National Nuclear Security Administration, and
3 Lawrence Livermore National Laboratory (“Defendants”), by and through their respective
4 counsel, hereby stipulate as follows:

5 WHEREAS, on March 10, 2008, Plaintiffs filed the Complaint for Declaratory,
6 Mandamus, and Injunctive Relief and the Motion for Preliminary Injunction, challenging
7 Defendant’s compliance with the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347,
8 with regard to the construction and operation of a Biosafety Level 3 facility at Lawrence
9 Livermore National Laboratory in Livermore, California; and

10 WHEREAS, the Court entered an Order denying Plaintiffs’ Motion for Preliminary
11 Injunction on February 9, 2009; and

12 WHEREAS, Plaintiffs filed the Amended Complaint for Declaratory, Mandamus, and
13 Injunctive Relief on March 20, 2009, and Defendants’ filed the Answer to Plaintiffs’ Amended
14 Complaint on April 3, 2009; and

15 WHEREAS, the Court entered an Order on May 19, 2009, setting forth a schedule for the
16 compilation and production of the Administrative Record in this case and for the briefing of
17 concurrent cross-motions for summary judgment; and

18 WHEREAS, pursuant to the Court’s Order of May 19, 2009, Plaintiffs submitted a letter
19 to Defendants on May 29, 2009, identifying specific issues relating to the adequacy of the
20 Administrative Record currently before the Court for the adjudication of the claims newly raised
21 in Plaintiffs’ Amended Complaint; and

22 WHEREAS, pursuant to the Court’s Order of May 19, 2009, Defendants responded to
23 Plaintiffs’ letter regarding the content of the Administrative Record on June 12, 2009; and

24 WHEREAS, pursuant to the Court’s Order of May 19, 2009, Plaintiffs responded to
25 Defendants’ letter regarding the content of the Administrative Record on June 18, 2009; and

26 WHEREAS, there is one unresolved issue regarding the content of the Administrative
27 Record; and
28

1 WHEREAS, Plaintiffs and Defendants desire to amend the schedule set forth in the
2 Court's May 19, 2009, Order to provide the parties with two additional weeks to resolve the one
3 remaining issue without seeking judicial intervention;

4 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Plaintiffs and
5 Defendants, through their respective counsel of record, as follows:

6 1. The parties shall attempt to informally resolve any issues relating to the content of the
7 Administrative Record. If informal efforts fail, Plaintiffs shall file a motion to complete or
8 supplement the Administrative Record no later than July 17, 2009.

9 2. Defendants shall designate and produce to Plaintiffs any agreed upon additions to the
10 Administrative Record no later than July 24, 2009. Alternatively, if there is a need to litigate an
11 issue relating to the content of the Administrative Record, then Defendants shall designate and
12 produce any required additions to the Administrative Record within fifteen (15) days of the
13 Court's resolution of the issue.

14 3. The parties shall file concurrent cross-motions for summary judgment no later than
15 thirty (30) days after the designation and production of any additions to the Administrative
16 Record required under Paragraph 2, and concurrent responses no later than fifteen (15) days
17 thereafter.

18 4. The foregoing agreement is not intended, and may not be cited by any party, as
19 admission of any issue of fact or law in this or any other judicial or administrative proceeding.

20
21 Dated this 2nd day of July, 2009

22 /s/ Robert J. Schwartz

23 Robert J. Schwartz
24 Steven Sugarman

25 Attorneys for Plaintiffs
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/s/ Barclay T. Samford
Barclay T. Samford

Attorney for Defendants

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DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from Barclay T. Samford.

Dated this 2nd day of July, 2009

/s/ Robert J. Schwartz
Robert J. Schwartz

Attorney for Plaintiffs

ORDER


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2 1. The parties shall attempt to informally resolve any issues relating to the content of the
3 Administrative Record. If informal efforts fail, Plaintiffs shall file a motion to complete or
4 supplement the Administrative Record no later than July 17, 2009.

5 2. Defendants shall designate and produce to Plaintiffs any agreed upon additions to the
6 Administrative Record no later than July 24, 2009. Alternatively, if there is a need to litigate an
7 issue relating to the content of the Administrative Record, then Defendants shall designate and
8 produce any required additions to the Administrative Record within fifteen (15) days of the
9 Court's resolution of the issue.

10 3. The parties shall file concurrent cross-motions for summary judgment no later than
11 thirty (30) days after the designation and production of any additions to the Administrative
12 Record required under Paragraph 2, and concurrent responses no later than fifteen (15) days
13 thereafter.

14 IT IS SO ORDERED.

15
16 Dated: 7/13/09


Saundra Brown Armstrong
United States District Judge